

February 28, 2005

By Email to: lanl\_sweis@doeal.gov

Ms. Elizabeth Withers  
NNSA Los Alamos Site Office  
NEPA Compliance Officer  
528 35<sup>th</sup> Street  
Los Alamos, New Mexico 87544

**Re: Comments about the need for a new Site-Wide Environmental Impact Statement (SWEIS) for the Continued Operation of the Los Alamos National Laboratory (LANL) and in the alternative, an Expanded Scope for the Supplemental Environmental Impact Statement to the Final SWEIS (S-SWEIS)**

Dear Ms. Withers:

The undersigned groups and individuals make the following comments about the need for the Department of Energy/National Nuclear Security Administration (DOE/NNSA) to prepare a new Site-Wide Environmental Impact Statement (SWEIS) for the Continued Operation of the Los Alamos National Laboratory (LANL). Alternatively, we make these comments about the need to expand the scope of the proposed Supplemental SWEIS (S-SWEIS). We request that you retain our contact information and provide us with a copy of the National Environmental Policy Act (NEPA) document that is prepared as a result of these scoping comments.

Unfortunately, we were prevented from reviewing the supplement analysis used by DOE/NNSA to determine the need for preparing a new SWEIS or a S-SWEIS as required by 40 CFR 1502.9(c), 10 CFR 1021.330 and 10 CFR 1021.314(c)(1) and (2) in a timely manner. We understand that the results of the February 8, 2005 Freedom of Information Act (FOIA) request of Concerned Citizens for Nuclear Safety (CCNS) will not be available until after the close of the comment period. Therefore, we request an extension of the comment period for fourteen (14) days after CCNS receives the results of its FOIA request and has had an opportunity to review the supplement analysis.

We also understand that any comments received by you by 7 a.m. Tuesday, March 1, 2005 will be considered in full as per your January 14, 2005 email to Joni Arends at CCNS.

We believe that DOE/NNSA should prepare a new SWEIS because there have been significant changes at LANL since the Record of Decision was issued for the 1999 LANL SWEIS. Such changes include the:

1. **May 2000 Cerro Grande Fire.** According to the New Mexico Environment Department (NMED), the highest levels of plutonium have been transported off-site through the Los Alamos/Pueblo Canyon system in storm water runoff after the

Cerro Grande Fire since the 1950s and 1960s. "Post Cerro Grande Fire Channel Morphology in Lower Pueblo Canyon, Reach P-4 West: and Storm Water Transport of Plutonium 239/240 in Suspended Sediments – Los Alamos County, New Mexico," by Dave Englert, Ralph Ford-Schmid and Kenny Bransford. The draft NEPA document should address what is being done to mitigate substantial contaminated runoff from the LANL site as a result of the fire. It should also address how erosion and runoff since the fire affected the geology of the LANL site, including contaminant pathways.

Los Alamos County was granted \$345 million by the U.S. Government following the Cerro Grande Fire in order to take measures to mitigate the fire effects and to plan for the next major natural disaster on the LANL site. The draft NEPA document should address whether the effects of the accident scenarios found in the 1999 SWEIS and any new accident scenarios have been reduced or mitigated as a result of this funding.

**2. New findings of contaminants in surface and ground water on the Pajarito Plateau.** We request that the draft NEPA document address and analyze the impacts of the Clean Water Act Federal Facilities Compliance Agreement (FFCA) that was recently signed by the Environmental Protection Agency Region VI, DOE and the University of California (UC). The FFCA addresses monitoring surface water discharges and storm water runoff from the LANL site. The draft NEPA document must evaluate the environmental impacts of any actions taken by LANL required under the FFCA.

We note that Los Alamos County has recently shut off two of the municipal drinking water wells due to contaminant concerns. This contaminant issue should be addressed in the draft NEPA document.

**3. New Mexico Environment Department draft Consent Order for LANL.** We understand that the final Order will be signed on March 1, 2005. Given the extent of the cleanup required under the Order, DOE/NNSA will be required to review the majority of the LANL property in order to adequately address its conditions. Therefore, a new SWEIS is warranted in order to incorporate the requirements found in the Order.

We were extremely disappointed that the 1999 SWEIS neither included nor analyzed the environmental impacts of cleanup at LANL. We request that the draft NEPA document include a detailed cleanup plan as developed thus far, as well as a thorough analysis of the environmental impacts of this plan. It should include the impacts on cleanup worker health and safety, air emissions, surface and ground water discharges, geography and soil disturbance.

DOE claimed in the 1999 SWEIS that "[Cleanup] actions are proposed and undertaken on a time scale that is not compatible with the preparation of this SWEIS." DOE/EIS-0238, January 1999, pg. S-61. Given that NMED's draft Order on Consent provides a detailed timeline of cleanup goals for LANL in "Table XI-1: Closure Milestone Schedule," located on page 230, we believe that this argument

would no longer apply to the draft NEPA document and therefore request that cleanup actions be included in the document.

Further, we request that the draft NEPA document indicate the possible land uses after cleanup has been completed, particularly in the cases of land to be transferred to the County of Los Alamos and tribal governments. We request that the draft NEPA document include analysis of impacts resulting from the possible adoption of the Uniform Environmental Covenants Act (UECA) by the New Mexico State Legislature.

Since the release of the 1999 SWEIS, there have been several transfers of land from LANL to Los Alamos County and San Ildefonso Pueblo. The draft NEPA document should address the strategies to be used to transfer additional land in order to alleviate risk to the public from use of these lands. It should also address the monitoring that will be done after the transfers are complete to ensure that these transfers are not compromising public health and safety.

We have examples of other transferred lands that posed a threat to public health and safety after the transfer, particularly the South Fork of Acid Canyon, which experiences heavy recreational traffic. Lessons learned from the cleanup of the South Fork should be incorporated in the impact analysis in the draft NEPA document.

**4. Other Environmental Concerns at LANL.** We request detailed information regarding air, ground water and surface water, soil and biota monitoring and sampling around the LANL complex be incorporated into the draft NEPA document. The draft should include the monitoring strategies LANL is using to monitor their environmental emissions, as well as how data is reported.

Since the release of the 1999 SWEIS, there have been substantial reductions in air monitoring around potentially dangerous facilities at LANL, including Material Disposal Area C, the Los Alamos Neutron Science Center (LANSCE) and the firing sites located in the southwestern portion of LANL. These cuts have been justified by LANL because the air monitoring is not associated with compliance. However, one of the recommendations from the "Analysis of Exposure and Risks to the Public from Radionuclides and Chemicals Released by the Cerro Grande Fire at Los Alamos," RAC Report No. 5-NMED-2002-FINAL, states that expansion of the "existing monitoring programs to establish a comprehensive program that addresses current and potential needs for both routine and emergency monitoring data collection." The draft NEPA document should include the environmental impacts of reduced air monitoring activities around such facilities.

A recent report by LANL entitled, "Analysis of Capture Zones of the Buckman Wellfield and a Proposed Horizontal Collector Well North of the Otowi Bridge," LA-UR-02-2750 indicates that the draw down by the Buckman Well Field, east of LANL, may be drawing contaminants from LANL underneath the Rio Grande and into the well field. This well field supplies more than 40% of Santa Fe's drinking water. The draft NEPA document must include an analysis of the impact of LANL contaminants reaching the Buckman Well Field. If it is found that LANL contaminants are impacting the Buckman Well Field, then we request that the draft NEPA document

examine the public health effects to those residing in Santa Fe from ingesting ground water from the Buckman Well Field that is contaminated as a result of LANL operations.

We also understand from Charlie Nylander at LANL that 60% of the recharge for the Buckman Well Field comes from the Pajarito Plateau. The draft NEPA document must include an analysis of the impact of LANL contaminants reaching Santa Fe's drinking water supply at the Buckman Well Field.

Recent findings by NMED indicate levels of fast-moving contaminants, tritium and perchlorate, are present in ground water and are emanating from springs along the Rio Grande. We refer you to the July 2004 CCNS report, "New Mexico's Right to Know: The Potential for Groundwater Contaminants from LANL to Reach the Rio Grande," by ground water hydrologist George Rice. <http://www.nuclearactive.org>. The draft NEPA document should analyze potential contaminant sources and what is being done to control further contaminant transport through surface and ground water pathways. The draft NEPA document should address the impacts from LANL's practice of burying radioactive and hazardous waste in unlined trenches, pits and shafts.

We also refer you to the April 2004 report of the Alliance for Nuclear Accountability entitled, "Danger Lurks Below: The Threat to Major Water Supplies from US DOE Nuclear Weapons Plants," which can be found at [www.ananuclear.org](http://www.ananuclear.org). The report details the "serious shortfalls of DOE's cleanup program and shows how hazardous materials are migrating from nuclear weapons sites, placing the environment, water supply systems and significant numbers of people at risk." Preface, p. v. The draft NEPA document should address lessons learned at other DOE sites addressing surface and ground water and soil contamination.

**5. Shutdown of LANL activities on July 16, 2004 due to security breaches and safety accidents.** Since the shutdown, a number of new reports have been released by the Government Accountability Office (GAO), Defense Nuclear Facility Safety Board (DNFSB) and DOE Inspector General which address security and safety issues at LANL. Continuing security and safety problems at LANL must be considered as part of the accident scenarios presented in the draft NEPA document.

For example, according to a February 2005 report of the DOE Inspector General, shipment of transuranic waste from LANL to the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico is approximately four years behind schedule due to LANL's consistently not following approved waste processing guidelines. The report finds, "[DOE] will not meet its transuranic waste disposal commitments because [LANL] did not adhere to waste certification requirements." Following the Cerro Grande fire, many organizations and individuals requested that the highest risk waste be placed in hardened on-site storage (HOSS) facilities. We were told that the highest risk waste was to be shipped to WIPP by September 2004. This has not happened and there is uncertainty about when the waste will be removed.

The draft NEPA document must include the environmental impacts of continued storage of this waste, as well as any precautions LANL will take to mitigate the risk

that this waste poses. The impacts of continued storage of this waste have on transuranic waste storage capacity at Area G must be addressed. Impacts of building hardened on-site storage (HOSS) facilities must be analyzed in order to ensure that this waste, which may remain on-site until 2014, is not subject to risk posed by wildfire or other natural or man-made disasters.

**6. Other Security Issues.** Since the 1999 SWEIS was finalized, several roads on the LANL complex have been closed to the public for security reasons, including Pajarito Road and East and West Jemez Roads. The impacts of these closures must be addressed in the draft NEPA document, including the ability of emergency responders to respond to emergencies or accidents at the sites along these roads. The draft should address increased response times and the impacts to public or worker health as a result.

The DOE Inspector General released a report in August 2004 that finds that LANL is unprepared to manage emergency situations. DOE/IG-0657. The report concludes that emergency preparedness failures may result in increased risks to DOE operations, employees and surrounding communities during an emergency situation, such as an accident, technological emergency or terrorist attack. The draft NEPA document must include the impacts this lack of preparedness will have in accident scenarios, including wildfire, earthquake, security breach and accidental criticality incident. It must also address what has or will be done to allay the negative impacts of LANL's lack of preparation for emergency events.

The Institute for Energy and Environmental Research (IEER) reported on August 11, 2004 that LANL has a discrepancy in its plutonium inventory that could account for 150 nuclear weapons. According to a letter to LANL Director Pete Nanos from IEER, Nuclear Watch of New Mexico and CCNS, "[t]he Department of Energy (DOE) reported a discharge to waste from LANL of 610 kilograms of plutonium; Los Alamos indicates a figure of 1,375 kilograms . . . a discrepancy of 765 kilograms, the equivalent of 150 nuclear weapons. This is unacceptable by any imaginable standards and constitutes a crucial safety, environmental, and security issue." Please see <http://www.ieer.org/comments/pu/nanospr.html>. The draft NEPA document must include an analysis of the steps taken to correct this discrepancy and the impacts to national security.

**7. New LANL management and operations contract.** We request that the draft NEPA document analyze the potential impacts of the transfer of management of LANL from UC. It should also analyze how DOE/NNSA will ensure that there are no adverse environmental impacts as a result of the transfer of management. The draft should explain how any potential manager be held responsible for compliance with NMED regulations regarding protection of air, water, soil and public health and safety. The draft NEPA document should explain how any potential manager will be held accountable for compliance and consequences for not being in compliance.

**8. Newly Constructed and Proposed Facilities.** The construction and operation of the proposed Modern Pit Facility (MPF) and Chemistry and Metallurgy Research Building Replacement Project (CMRR) and newly-constructed Biosafety Level-3 (BSL-3) facility should not be analyzed as part of the No Action Alternative or a

potential Expanded Operations Alternative in the draft NEPA document. The MPF and CMRR are speculative as yet considering that they are contingent upon funding appropriations from the United States Congress. The BSL-3 facility has been built but a new environmental assessment is being prepared. The environmental impacts of these projects should be analyzed in the draft NEPA document. These projects should not be considered as part of the No Action Alternative.

Furthermore, we believe that any NEPA document that is prepared to address LANL operations should include a No Action Alternative where the alternative is actually no action. As noted in the Federal Register Notice of January 5, 2005, "The No Action Alternative for the S-SWEIS is the continued implementation of the SWEIS [Record of Decision], together with other actions described and analyzed in subsequent NEPA reviews." Continued implementation of existing operations is not a "no action alternative." It is an "action alternative." Therefore, we strongly request that the no action alternative be just that. We also request that any draft NEPA document include a reduced operations alternative and a greener operations alternative, as were included in the 1999 SWEIS.

**9. New Electricity Needs.** The 1999 SWEIS indicated that every alternative addressed would require greater amounts of electricity than is available. Potential operations at the proposed MPF and CMRR would increase this strain substantially. The draft NEPA document must analyze how LANL has mitigated electrical shortages in the region. The impacts for any plans for development of additional power transfer stations in the area should be analyzed in the draft NEPA document.

**10. Existing Facilities.** At the January 19, 2005 meeting about the scope of the proposed S-SWEIS at the Pablo Roybal Elementary School in Pojoaque, there was a presentation that indicated that refurbishment of the Radioactive Liquid Waste Treatment Facility (RLWTF) at Technical Area (TA) 50 is planned. According to a recent DNFSB report, a leak in one of the primary waste storage tanks at TA-50 has caused a backlog of waste to collect at the site. The draft NEPA document must address what is being done to mitigate the environmental effects caused by such a leak and subsequent waste backlog. It should also include an analysis of how this leak has effected the treatment of waste at TA-50 and the condition of the effluent released to Mortandad Canyon.

We request that DOE/NNSA thoroughly examine the environmental impacts of decontaminating and decommissioning Technical Area (TA) 18. On September 30, 2004, shipment of the special nuclear materials and equipment stored at TA-18 to the Nevada Test Site began. The draft NEPA document must analyze the environmental and public health impacts of the special nuclear materials remaining at TA-18, including impacts to local air and ground and surface water resources, particularly regarding storm water runoff. The analysis must include the impacts of natural or man-made disaster at TA-18.

**11. Access to Information.** Recently, the Nuclear Regulatory Commission (NRC) restricted access by the public to documents that are essential to reviewing and commenting upon the Environmental Impact Statement for the uranium enrichment facility proposed for Lea County, New Mexico by Louisiana Energy Services. We

request that DOE/NNSA not follow NRC's example and allow all documents related to the draft NEPA document to remain open and readily accessible to the public in order to ensure an effective public comment period on the scope of the draft NEPA document.

Thank you for your consideration of our comments. Should you have any questions or comments, please do not hesitate to contact any of the organizations and individuals listed below.

Sincerely,

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cc: Senator Pete V. Domenici  
Senator Jeff Bingaman  
Representative Tom Udall  
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Governor of San Ildefonso Pueblo  
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Governor of Nambe Pueblo  
Governor of Picuris Pueblo  
Governor of Pojoaque Pueblo  
Governor of Taos Pueblo  
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Eight Northern Indian Pueblo Council  
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City of Española Mayor and Council Members  
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